

**DEPARTMENT OF LABOR**

**Statement by**

**ANN L. COMBS**

**ASSISTANT SECRETARY EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

**On**

**Fiscal Year 2005 Request for  
EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

I appreciate the opportunity to present the Department of Labor's Fiscal Year (FY) 2005 budget request for the Employee Benefits Security Administration (EBSA). EBSA is responsible for the administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA governs approximately 730,000 private pension plans and six million private health and welfare plans that hold over \$4 trillion in assets and cover 150 million Americans. Our current authorized staffing is 930 FTE and the FY 2004 appropriation is \$124 million.

EBSA and its employees around the country work diligently to protect the interests of American workers, retirees and their families, and support the growth of our private benefits system. EBSA's top priority is to ensure that pension and health plans are operated in accordance with the law. We employ a comprehensive, integrated approach encompassing programs for enforcement, participant and compliance assistance, outreach, interpretive guidance, legislation, and research to protect and advance the health and retirement security of our nation's workers and retirees. This

approach yielded a record \$1.4 billion in results (including benefit recoveries, assets restored, prohibited transactions corrected and plan assets protected) for workers and employee benefit plans in FY 2003.

EBSA's mission directly supports the strategic goals of the Secretary to promote the economic security of workers and families and maintain competitiveness in the 21<sup>st</sup> century economy. Accomplishing these strategic goals will enable us to succeed in meeting the challenges and realizing the opportunities afforded by the President's Management Agenda.

It is clear that the FY 2005 budget request demonstrates the importance the President and Secretary Chao place on supporting and strengthening EBSA's mission to protect employees' retirement and health benefits. One need look no further than the newspapers to understand clearly the impact that corporate fraud, mutual fund abuses, and health insurance scams have had on the financial well-being of American workers. Preventing and prosecuting this fraud remains a top priority for this Administration.

### **FY 2005 Budget Request**

The President's FY 2005 budget request of \$132.3 million and 960 FTE for EBSA includes an increase of \$8.3 million and 30 FTE to provide additional enforcement resources to safeguard workers' retirement savings, health coverage, and other employee benefits, and to expand compliance assistance efforts to educate employers

and plan administrators on their responsibilities under the law. Increasing the EBSA budget by 7 percent – at a time when other national priorities such as the war on terrorism and homeland security are so compelling – is a reflection of the Bush Administration’s strong commitment to protecting workers’ and retirees’ employment-based benefits.

The President has proposed the following budget enhancements for EBSA that will strengthen the confidence of the American workforce that their retirement savings and health care benefits are secure:

- Employee Benefits and Retirement Security through Enforcement. DOL is requesting a budget enhancement of \$4.6 million and 30 FTE to establish additional groups of investigators in the agency’s regions to conduct civil and criminal investigations and to establish a senior level criminal case coordinator in each region. The criminal coordinators, working with the national criminal coordinator, will provide expert direction and advice on regional criminal enforcement matters. This enhancement strengthens benefit security through targeted civil and criminal enforcement and will enhance joint enforcement efforts with regional law enforcement agencies at the federal, state, and local levels. These new resources should result in an additional 317 investigations being conducted - 5 percent more civil investigations and 18 percent more

criminal investigations - and are projected to increase total monetary results by \$155 million over FY 2004 estimates.

- Expert Witness/Litigation Support. DOL is requesting a budget enhancement of \$500,000 to provide additional resources to support the costs of major complex investigations. Corporate fraud and similar cases can be extraordinarily time and resource intensive and generally cannot be brought without the support of one or more expert witnesses. As the complexity of our caseload increases, so does the cost. DOL will continue to actively pursue these kinds of cases in view of the risks they pose to workers, and we must have the resources to pursue necessary litigation.

## **Policy Initiatives**

In 2002, the President proposed five key reforms to the defined contribution retirement system, intended to provide workers with greater confidence, choice and control over their retirement savings. Congress already passed two elements of the President's Retirement Security Plan into law, and the House of Representatives passed the remaining three reforms on a bipartisan basis last summer. The Pension Security Act, H.R. 1000, includes the President's proposals to strengthen workers' ability to manage their retirement funds by giving them more freedom to diversify their investments, to provide better information to workers through improved 401(k) and pension plan statements, and to encourage employers to provide their employees with

access to professional investment advice. The Administration strongly supports the Congress' efforts to complete consideration of this important legislation, passing these remaining reforms into law.

As part of the Administration's commitment to expanding health insurance coverage, the Department strongly supports the enactment of association health plan (AHP) legislation. More than 41 million Americans lack health insurance, and fully 85 percent of the uninsured are in working families – with most working at firms with fewer than 100 employees. A large part of the problem of uninsurance among workers and their families is attributable to the difficulties small businesses face in trying to offer quality, affordable health insurance. Small firms employ 42 percent of all workers, yet these workers and their families comprise 60 percent of the working uninsured. AHPs are aimed squarely at assisting these workers and their families.

AHP legislation allows small employers and others to join together through bona fide associations to purchase or provide health insurance coverage for their employees, leveling the playing field for small businesses by allowing them to take advantage of the same economies of scale and uniform regulation enjoyed by large employer and union health plans. The House of Representatives passed AHP legislation with strong bipartisan support last year, and President Bush called on Congress to pass the bill into law in his State of the Union Address last month. The Small Business Health Fairness Act, H.R. 660 in the House and S. 545 in the Senate, provides rigorous protective

standards to ensure that these plans keep their benefit promises, and EBSA stands ready to work with members of Congress to pass this much-needed legislation into law, expanding access to affordable quality health insurance coverage for working Americans and their families.

This Administration is also committed to reforming the defined benefit pension system. As you are aware, pension underfunding threatens workers and retirees, who depend on the defined benefit system to be predictable and reliable. Last July, the Administration offered legislative recommendations designed to provide the first steps towards a more secure system. Specifically, we proposed to improve the accuracy of the measurement of pension liabilities by using discount rates based on a corporate bond yield curve; to improve disclosure of pension funding to plan participants, analysts and investors; and to require immediate funding or security for benefit increases in highly underfunded plans of financially troubled companies.

The Administration supports the House-passed version of H.R. 3108, which provides for corporate bond interest rate replacement for two years. The Administration opposes those provisions in the Senate-passed bill that will significantly exacerbate the problem of plan underfunding, including broad-based Deficit Reduction Contribution (DRC) and multiemployer plan relief provisions. We urge Congress to act quickly in conference to move forward on this important legislation.

The Department of Labor is continuing to work with the White House, the PBGC, and the Departments of Treasury and Commerce to develop comprehensive reforms to stabilize the defined benefit system.

## **Conclusion**

Mr. Chairman and members of the Committee, this budget reflects the strong commitment of the Bush Administration and this Congress to improving the lives of America's working families by protecting their employee benefits and retirement security. This Committee's support for our program has been and will continue to be essential in that effort.